

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JERRY FRITH,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.
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JED S. RAKOFF, U.S.D.J.

04 Civ. 1519 (JSR)


ORDER

USDC SDNY
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On March 22, 2006, the Honorable Ronald L. Ellis, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending the denial of petitioner's petition filed pursuant to 28 U.S.C. § 2255. Subsequently, on April 4, 2006, petitioner submitted objections to certain portions of the Report and Recommendation. Accordingly, the Court has reviewed the petition and the underlying record de novo.

Having done so, the Court finds itself in complete agreement with Magistrate Judge Ellis's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court dismisses the petition, with prejudice. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253(c)(2). Moreover, as petitioner's claim lacks any arguable basis in law or fact, permission to proceed in forma pauperis is also denied. 28 U.S.C. § 1915(g); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). Clerk to enter judgment.

SO ORDERED.


JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
May 30, 2006